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Remarks:

Amendments to the claims:

Claims 1, 3, 4, 6-12, 14, 17, 19 and 24 are pending in this application. By this Amendment, claims 1, 3 and 6-8 are amended, claims 5 and 16 are canceled, and new claims 21-24 are added. Claim 16 is canceled to address a rejection under 35 USC 112, second paragraph and 35 USC 101; claims 3 and 11 are amended to remove abbreviations from those claims; and claims 6-8 are amended to maintain consistency with amended claim 1.

No new matter is added to the application by this Amendment. The features added to claim 1 find support in canceled claim 5 and within the specification, as original filed, at, for example, paragraph [0028] of US Patent Publication 2007/0111917 (hereinafter "the 917 publication") for the present application. New claims 21-24 find support in Example 1 of the present application and within the specification, as original filed, at, for example, paragraphs [0031] and [0031] of the 917 publication.

Regarding the rejections of claims 16 under 35 USC 112, second paragraph and 35 USC 101:

Applicants respectfully traverse these rejections of claim 16 under 35 USC 112 and 101. In view of the cancellation of claim 16, these rejections are moot. Applicants respectfully request withdrawal of these rejections to claim 16.

Regarding the rejection of claims 1, 3, 4, 9-12, 14 and 16 under 35 USC 102(e) as allegedly being anticipated by US Patent No. 6,797,685 to Zhu et al. (hereinafter "Zhu"):

Applicants respectfully traverse the rejection of the foregoing claims in view of Zhu.

Prior to discussing the relative merits of the Examiner's rejection, the applicant points out that unpatentability based on "anticipation" type rejection under 35 USC 102(b) requires that the invention is not in fact new. See *Hoover Group, Inc. v. Custom Metalcraft, Inc.*, 66 F.3d 299, 302, 36 USPQ2d 1101, 1103 (Fed. Cir. 1995) ("lack of novelty (often called

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'anticipation') requires that the same invention, including each element and limitation of the claims, was known or used by others before it was invented by the patentee").

Anticipation requires that a *single reference* [emphasis added] describe the claimed invention with sufficient precision and detail to establish that the subject matter existed in the prior art. See, *In re Spada*, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990). Although the Examiner had lodged the rejection under 35 USC 102(e), the foregoing principle applies as well.

The Patent Office alleges that Zhu discloses each and every feature of the foregoing claims. Applicants respectfully disagree with the allegations by the Patent Office.

In view of the cancelation of claim 16, this rejection is moot with respect to that claim.

Amended claim 1 incorporates the features of canceled claim 5, which was not rejected under 35 USC 102(e) as allegedly being anticipated by Zhu. Accordingly, amended independent claim 1 requires a hard surface cleaning composition wherein effective stabilization of the emulsion system is by particulate moieties comprising a hydrophobic particulate moiety and a hydrophilic particulate moiety.

As acknowledged by the Patent Office's failure to reject canceled claim 5 as allegedly being anticipated by Zhu, Zhu does not disclose the features of canceled claim 5 as required by amended claim 1. Specifically, Zhu fails to disclose effective stabilization of an emulsion system by particulate moieties comprising a hydrophobic particulate moiety and a hydrophilic particulate moiety as recited in claim 1.

The principle of "inherency," in the law of anticipation, requires that any information missing from the reference would nonetheless be known to be present in the subject matter of the reference, when viewed by persons experienced in the field of the invention. However, "anticipation by inherent disclosure is appropriate only when the reference discloses prior art that must necessarily include the unstated limitation, [or the reference] cannot inherently anticipate the claims." *Transclean Corp. v. Bridgewood Servs., Inc.*,

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290 F.3d 1364, 1373 [62 USPQ2d 1865] (Fed. Cir. 2002); *Hitzeman v. Rutter*, 243 F.3d 1345, 1355 [58 USPQ2d 1161] (Fed. Cir. 2001) ("consistent with the law of anticipation, an inherent property must necessarily be present in the invention described by the count, and it must be so recognized by persons of ordinary skill in the art"); *In re Robertson*, 169 F.3d 743, 745 [49 USPQ2d 1949] (Fed. Cir. 1999) (that a feature in the prior art reference "could" operate as claimed does not establish inherency).

Thus when a claim limitation is not explicitly set forth in a reference, evidence "must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill." *Continental Can Co.*, 948 F.2d at 1268. It is not sufficient if a material element or limitation is "merely probably or possibly present" in the prior art. *Trintec Indus., Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 1295 [63 USPQ2d 1597] (Fed. Cir. 2002). See also, *W.L. Gore v. Garlock, Inc.*, 721 F.2d at 1554 (Fed. Cir. 1983) (anticipation "cannot be predicated on mere conjecture respecting the characteristics of products that might result from the practice of processes disclosed in references"); *In re Oelrich*, 666 F.2d 578, 581 [212 USPQ 323] (CCPA 1982) (to anticipate, the asserted inherent function must be present in the prior art).

Because the features of independent claim 1 are not disclosed by Zhu, Zhu cannot anticipate, nor would have rendered obvious, the features specifically defined in claims 1, 12, 14 and 17 and their dependent claims.

For at least these reasons, claims 1, 3, 4, 9-12 and 14 are patentably distinct from and/or non-obvious in view of Zhu. Reconsideration and withdrawal of the rejections of the claims under 35 USC 102(e) are respectfully requested.

Regarding the rejection of claims 1, 3, 4, 9-12, 14 and 16 under 35 USC 102(a) as allegedly being anticipated by US Patent No. 6,464,966 to Simon:

Applicants respectfully traverse the rejection of the foregoing claims in view of Simon.

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The Patent Office alleges that Simon teaches each and every feature of the foregoing claims. Applicants respectfully disagree with the allegations by the Patent Office.

In view of the cancellation of claim 16, this rejection is moot with respect to that claim.

Amended claim 1 incorporates the features of canceled claim 5, which was not rejected under 35 USC 102(a) as allegedly being anticipated by Simon.

As acknowledged by the Patent Office's failure to reject canceled claim 5 as allegedly being anticipated by Simon, Simon does not disclose the features of canceled claim 5 as required by amended claim 1. Specifically, Simon fails to disclose effective stabilization of an emulsion system by particulate moieties comprising a hydrophobic particulate moiety and a hydrophilic particulate moiety as recited in claim 1.

Because these features of independent claim 1 are not disclosed by Simon, Simon cannot anticipate, nor would not have rendered obvious, the features specifically defined in claims 1, 12, 14 and 17 and their dependent claims.

For at least these reasons, claims 1, 3, 4, 9-12 and 14 are patentably distinct from and/or non-obvious in view of Simon. Reconsideration and withdrawal of the rejections of the claims under 35 USC 102(a) are respectfully requested.

Regarding the rejection of claims 1, 3, 4, 9-12, 14 and 16 under 35 USC 102(b) as allegedly being anticipated by US Patent No. 6,464,966 to St. Lewis et al. (hereinafter "St. Lewis"):

Applicants respectfully traverse the rejection of the foregoing claims in view of St. Lewis.

The Patent Office alleges that St. Lewis teaches each and every feature of the foregoing claims. Applicants respectfully disagree with the allegations by the Patent Office.

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In view of the cancelation of claim 16, this rejection is moot with respect to that claim.

Amended claim 1 incorporates the features of canceled claim 5, which was not rejected under 35 USC 102(b) as allegedly being anticipated by St. Lewis.

As acknowledged by the Patent Office's failure to reject canceled claim 5 as allegedly being anticipated by St. Lewis, St. Lewis does not disclose the features of canceled claim 5 as required by amended claim 1. Specifically, St. Lewis fails to disclose effective stabilization of an emulsion system by particulate moieties comprising a hydrophobic particulate moiety and a hydrophilic particulate moiety as recited in claim 1.

Because these features of independent claim 1 are not disclosed by St. Lewis, St. Lewis cannot anticipate, nor would not have rendered obvious, the features specifically defined in claims 1, 12, 14 and 17 and their dependent claims.

For at least these reasons, claims 1, 3, 4, 9-12 and 14 are patentably distinct from and/or non-obvious in view of St. Lewis. Reconsideration and withdrawal of the rejections of the claims under 35 USC 102(b) are respectfully requested.

Regarding the rejection of claims 1, 3, 4, 9-14 and 16 under 35 USC 102(e) as allegedly being anticipated by US Patent Publication No. 2003/0133957 to Amalric et al. (hereinafter "Amalric"):

Applicants respectfully traverse the rejection of the foregoing claims in view of Amalric.

The Patent Office alleges that Amalric teaches each and every feature of the foregoing claims. Applicants respectfully disagree with the allegations by the Patent Office.

In view of the cancelation of claim 16, this rejection is moot with respect to that claim.

Amended claim 1 incorporates the features of canceled claim 5, which was not rejected under 35 USC 102(e) as allegedly being anticipated by Amalric.

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As acknowledged by the Patent Office's failure to reject canceled claim 5 as allegedly being anticipated by Amalric, Amalric does not disclose the features of canceled claim 5 as required by amended claim 1. Specifically, Amalric fails to disclose effective stabilization of an emulsion system by particulate moieties comprising a hydrophobic particulate moiety and a hydrophilic particulate moiety as recited in claim 1.

Because these features of independent claim 1 are not disclosed by Amalric, Amalric cannot anticipate, nor would not have rendered obvious, the features specifically defined in claims 1, 12 and 14 and their dependent claims.

For at least these reasons, claims 1, 3, 4, 9-12 and 14 are patentably distinct from and/or non-obvious in view of Amalric. Reconsideration and withdrawal of the rejections of the claims under 35 USC 102(e) are respectfully requested.

Regarding the rejection of claims 1, 3-12, 14 and 16 under 35 USC 102(a) as allegedly being anticipated by WO 02/069917 to Glenn et al. (hereinafter "Glenn"):

Applicants respectfully traverse the rejection of the foregoing claims in view of Glenn.

The Patent Office alleges that Glenn teaches each and every feature of the foregoing claims. Applicants respectfully disagree with the allegations by the Patent Office.

In view of the cancellation of claim 16, this rejection is moot with respect to that claim.

Glenn teaches that particulate thickeners are immiscible in the aqueous continuous phase and can take the form of a wax, hydrophobic silica, hydrophobic clay or mixtures thereof (see the third full paragraph in page 28). Glenn also teaches that the particulate thickener can comprise hydrophobically modified dispersed amorphous silica (see the second full paragraph in page 30). Moreover, Glenn teaches, as acknowledged by the Patent Office, a primary emulsion composition including 5% silica dimethyl silylate (see Example III in page 50).

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However, Glenn fails to disclose a hard surface cleaning composition wherein effective stabilization of the emulsion system is by particulate moieties comprising a hydrophobic particulate moiety and a hydrophilic particulate moiety as required by claim 1.

Because these features of independent claim 1 are not disclosed by Glenn, Glenn cannot anticipate, nor would not have rendered obvious, the features specifically defined in claims 1, 12 and 14 and their dependent claims.

For at least these reasons, claims 1, 3-12 and 14 are patentably distinct from and/or non-obvious in view of Glenn. Reconsideration and withdrawal of the rejections of the claims under 35 USC 102(a) are respectfully requested.

Regarding the rejection of claims 1, 3-12, 14 and 16 under 35 USC 103(a) as allegedly being obvious in view of Amalric:

Applicants respectfully traverse the rejection of the foregoing claims in view of Amalric.

Prior to discussing the merits of the Examiner's position, the undersigned reminds the Examiner that the determination of obviousness under § 103(a) requires consideration of the factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1 [148 USPQ 459] (1966): (1) the scope and content of the prior art; (2) the differences between the claims and the prior art; (3) the level of ordinary skill in the pertinent art; and (4) secondary considerations, if any, of nonobviousness. *McNeil-PPC, Inc. v. L. Perrigo Co.*, 337 F.3d 1362, 1368, 67 USPQ2d 1649, 1653 (Fed. Cir. 2003). There must be some suggestion, teaching, or motivation arising from what the prior art would have taught a person of ordinary skill in the field of the invention to make the proposed changes to the reference. *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988). But see also *KSR International Co. v. Teleflex Inc.*, 82 USPQ2D 1385 (U.S. 2007).

A methodology for the analysis of obviousness was set out in *In re Kotzab*, 217 F.3d 1365, 1369-70, 55 USPQ2d 1313, 1316-17 (Fed. Cir. 2000) A critical step in analyzing the patentability of claims pursuant to section 103(a) is casting the mind back to the time

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of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field. Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one "to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher."

It must also be shown that one having ordinary skill in the art would reasonably have expected any proposed changes to a prior art reference would have been successful. *Amgen, Inc. v. Chugai Pharmaceutical Co.*, 927 F.2d 1200, 1207, 18 USPQ2d 1016, 1022 (Fed. Cir. 1991); *In re O'Farrell*, 853 F.2d 894, 903-04, 7 USPQ2d 1673, 1681 (Fed. Cir. 1988); *In re Clinton*, 527 F.2d 1226, 1228, 188 USPQ 365, 367 (CCPA 1976). "Both the suggestion and the expectation of success must be founded in the prior art, not in the applicant's disclosure." *In re Dow Chem. Co.*, 837 F.2d 469, 473, 5 USPQ2d 1529, 1531 (Fed. Cir. 1988).

The Patent Office alleges that Amalric teaches multiple emulsions may be stabilized with a hydrophobic silica. The Patent Office also alleges that it would have been obvious to one of ordinary skill in the art to incorporate a hydrophobic silica stabilizer in the composition of paragraph [0094] with a reasonable expectation of successfully forming an effective detergent composition. Applicants respectfully disagree with these allegations.

In view of the cancellation of claim 16, this rejection is moot with respect to that claim.

Amalric teaches stabilizers which may be used may include hydrophobic silicas (see paragraph [0064]). However, Amalric does not teach or suggest use of a hydrophilic particulate moiety. Thus, even if a skilled artisan modified the teaching of Amalric to incorporate a hydrophobic silica stabilizer in the composition set forth in paragraph [0094] of Amalric, the resulting combination would not achieve the presently claimed hard surface cleaning composition as alleged by the Patent Office.

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According, Amalric does not teach or suggest a hard surface cleaning composition wherein effective stabilization of the emulsion system is by particulate moieties comprising a hydrophobic particulate moiety and a hydrophilic particulate moiety as required by claim 1.

Because these features of independent claim 1 are not taught or suggested by Amalric, Amalric would not have rendered the features of claims 1, 3, 4, 9-12 and 14 obvious to one of ordinary skill in the art.

In view of the foregoing, reconsideration and withdrawal of this rejection are respectfully requested.

Regarding the rejection of claims 1, 3, 4, 9-12, 16, 17, 19 and 20 under 35 USC 103(a) in view of US 6,270,878 to Wegele et al. (hereinafter "Wegele"):

Applicants respectfully traverse the rejection of the foregoing claims in view of Wegele.

The Patent Office alleges that Wegele teaches each and every feature of the foregoing claims. Applicants respectfully disagree with the allegations by the Patent Office.

In view of the cancellation of claim 16, this rejection is moot with respect to that claim.

Amended claim 1 incorporates the features of canceled claim 5, which was not rejected under 35 USC 103(a) as allegedly being unpatentable over Wegele.

As acknowledged by the Patent Office's failure to reject canceled claim 5 as allegedly being unpatentable over Wegele, Wegele does not disclose the features of canceled claim 5 as required by amended claim 1. Specifically, Wegele fails to teach or suggest effective stabilization of an emulsion system by particulate moieties comprising a hydrophobic particulate moiety and a hydrophilic particulate moiety as recited in claim 1.

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Because the features of independent claim 1 are neither taught nor suggested by Wegele, this reference would not have rendered obvious, the features specifically defined in claim 1, 12 and 14 and their dependent claims.

For at least these reasons, claims 1, 3, 4, 9-12, 14, 17, 19 and 20 are non-obvious in view of Wegele. Reconsideration and withdrawal of the rejection of the claims under 35 USC 103(a) are respectfully requested.

Regarding the rejection of claims 1, 3, 4, 9-12, 16, 17, 19 and 20 under 35 USC 103(a) in view of US 4,810,407 to Sandvick (hereinafter "Sandvick"):

Applicants respectfully traverse the rejection of the foregoing claims in view of Sandvick.

The Patent Office alleges that Sandvick teaches each and every feature of the foregoing claims. Applicants respectfully disagree with the allegations by the Patent Office.

In view of the cancellation of claim 16, this rejection is moot with respect to that claim.

Amended claim 1 incorporates the features of canceled claim 5, which was not rejected under 35 USC 103(a) as allegedly being unpatentable over Sandvick.

As acknowledged by the Patent Office's failure to reject canceled claim 5 as allegedly being unpatentable over Sandvick, Sandvick does not disclose the features of canceled claim 5 as required by amended claim 1. Specifically, Sandvick fails to teach or suggest effective stabilization of an emulsion system by particulate moieties comprising a hydrophobic particulate moiety and a hydrophilic particulate moiety as recited in claim 1.

Because the features of independent claim 1 are neither taught nor suggested by Sandvick, this reference would not have rendered obvious, the features specifically defined in claim 1, 12 and 14 and their dependent claims.

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For at least these reasons, claims 1, 3, 4, 9-12, 14, 17, 19 and 20 are non-obvious in view of Sandvick. Reconsideration and withdrawal of the rejection of the claims under 35 USC 103(a) are respectfully requested.

Regarding new claims 21-24:

As set forth above with respect to the rejections under 35 USC 102 and 103, none of the cited references teach or suggest the features recited in independent claim 1, from which new claims 21-24 directly or indirectly depend. Specifically, Zhu, Simon, St. Lewis, Amalric, Glenn, Wegele and Sandvick, taken singly or in combination, fail to teach or suggest effective stabilization of an emulsion system by particulate moieties comprising a hydrophobic particulate moiety and a hydrophilic particulate moiety as recited in claim 1

Moreover, the cited references fail to teach or suggest the additional features specifically defined in new dependent claims 21-24.

In view of the foregoing, new claims 21-24 are patentably distinct from and/or non-obvious in view of cited references, taken singly or in combination.

Should the Examiner in charge of this application believe that telephonic communication with the undersigned would meaningfully advance the prosecution of this application, they are invited to call the undersigned at their earliest convenience.

The early issuance of a *Notice of Allowability* is solicited.

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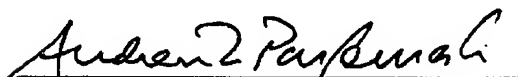
PETITION FOR A ONE-MONTH EXTENSION OF TIME

Applicants respectfully petition for a one-month extension of time in order to permit for the timely entry of this response. The Commissioner is hereby authorized to charge the fee to Deposit Account No. 14-1263 with respect to this petition.

CONDITIONAL AUTHORIZATION FOR FEES

Should any further fee be required by the Commissioner in order to permit the timely entry of this paper, the Commissioner is authorized to charge any such fee to Deposit Account No. 14-1263.

Respectfully Submitted;



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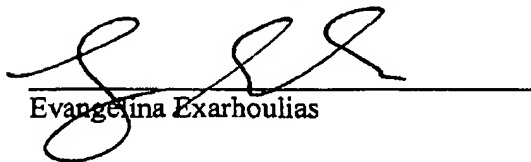
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Enclosure – *Request for Continued Examination*

CERTIFICATE OF TELEFAX TRANSMISSION UNDER 37 CFR 1.8

I certify that this document, and any attachments thereto, addressed to the:
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Evangelina Exarhoulias



Date

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